IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2069 of 2007

Vanessa Rose Vaderaa

...Petitioner(s)

Versus

Aswal Vadera and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. A.K. Chopra, Sr. Advocate with
Mr. Sumeet Goel, Advocate.
Mr. Amit Rawal, Advocate for respondents No.5 to 7.
Mr. Arun Nehra, Advocate for respondents No.1 to 4.

M.M. AGGARWAL,J

This is petition against order dated 9.4.2007 passed by Civil Judge(Jr.Divn.), Gurgaon whereby request of the present petitioner to be impleaded as party was declined.

The facts of the case are that respondents No.1 to 4 had filed one suit for permanent injunction as against respondents No.5 to 7. M/s Inter-state Development Designs & Engineering Consultancy Pvt Ltd respondent No.7 was defendant No.3 in that suit. This Inter State Development Designs & Engineering Consultancy Pvt Ltd had filed two suits as against plaintiffs of that case i.e respondents No.1 to 4. All these three suits were filed in the year 1995 and 1996 and then were ultimately consolidated and taken up for trial together.

From the perusal of the plaint of these cases, it comes out that these relate to properties originally owned by one Balraj Vadera. Respondents Aswal Vadera etc, now respondents No.1 to 4, who had filed the suit, happen to be sons and widow of that Balraj Vadera. Present petitioner claims herself to be also widow of that Balraj Vadera and claims

that Balraj Vadera had executed will in her favour on 14.7.1995 before his death.

It comes out that Aswal Vadera had also filed a probate application in the High Court at Delhi in which present petitioner was also made one of the respondents.

It is settled law that plaintiff is dominus litus of the case. However, in the present case, three cases were consolidated and counsel for respondent No.7 i.e Inter-state Development Designs & Engineering Consultancy Pvt Ltd, who had filed two suits, has no objection if application of the present petitioner under Order 1 Rule 10 CPC had been allowed and she had been made party.

Application is contested primarily by respondents No.1 to 4 on the ground that it has not been properly filed and that the petitioner has just been brought in by the other defendants after 10 years to delay the proceedings and that the case is already pending for the last ten years or more for decision and that dispute regarding inheritance is to be decided by the Delhi Court in probate proceedings and not in these suits for declaration and permanent injunctions.

Even if it may be so, petitioner happens to be wife of the deceased Balraj Vadera and claims rights on the basis of will stated to be executed by Balraj Vadera. From the perusal of the plaint of all the three cases, it would come out that the disputes are regarding properties of Balraj Vadera.

Under these circumstances, presence of the present petitioner before the court is necessary for just decision of the cases especially when three cases have been consolidated and in two of the cases, plaintiffs of those cases have no objection if petitioner is impleaded as party.

Under these circumstances, order dated 9.4.2007 is set aside. Application filed by the present petitioner for being imleaded as party is allowed.

April 25, 2007 (M.M. AGGARWAL)
manoj JUDGE